

Appln No. 09/995,483
Amdt date October 1, 2010
Reply to Office action of June 1, 2010

Amendments to the Drawings:

The attached sheet of drawing includes new FIG. 15.

Attachment: New Drawing

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REMARKS/ARGUMENTS

The above amendments and these remarks are in response to the Office action mailed on June 1, 2010. Claims 1, 4, 22, 27 and 115 have been amended. Claims 116-118 have been added and are directed to subject matter disclosed in the application as originally filed. No new matter has been added. Claims 3 and 34 have been canceled. Claims 1, 4-7, 10, 14-18, 22, 23, 27, 28, 30, 31, and 115-118 are now pending in this application. Reconsideration on the basis of the above amendments and remarks below is kindly requested.

The undersigned attorney wishes to thank the Examiner for the telephonic interview on September 7, 2010, where the disclosure of Nishioka et al. and the difference between Nishoka et al. and the claims mentioned were discussed.

The Examiner objected to the drawings under 37 C.F.R. §1.83(a). New drawing of FIG. 15 has been added to address this objection. In addition, the specification has been amended to make reference to FIG. 15. Support for the additional drawing, as well as the amendment to the specification, is found in the patent as issued, on column 4, lines 54-58.

The Examiner objected to claims 3 and 115. Claim 3 has been canceled. Claim 115 has been amended to address this objection.

The Examiner issued a provisional obviousness-type double patenting rejection under claims 10, 18 and 31 over claims 61, 62, 64, 65, and 67 of co-pending Application No. 11/041,925. A Terminal Disclaimer is being submitted herewith to overcome this rejection.

The Examiner rejected claims 1, 4, 5, 14, 16, 17 and 22 under 35 U.S.C. §102(b) as being anticipated by Nishioka et al., U.S. Patent No. 4,036,386. The Examiner also objected to claims 3, 15 and 28 but stated that these claims would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Claims 15 and 28 have been rewritten in independent form as claims 117 and 118, respectively. Thus, applicant submits that claims 117 and 118 are now in condition for allowance.

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Claim 1 has been amended to include the limitations of claim 3. As such, applicant submits that claim 1 is now in condition for allowance. Claims 4-7 and 115 are dependent from claim 1. As such, applicant submits that claims 4-7 and 115 are also in condition for allowance, as being dependent from an allowable base claim and for the additional limitation that these claims contain therein.

Claims 14 and 22 require a cap having a plurality of circular ridges. Claim 14 requires that the bottle neck rim is engaged by all of said plurality of ridges along a majority of a circumferential length of the bottle neck rim. Claim 22 requires that all of said plurality of ridges engage the upper surface of the rim along a majority of a circumferential length of the upper surface of the rim. Nishioka et al. does not disclose any a majority of the circumferential length of the bottle neck rim is engaged by all of the ridges, as required by claims 14 and 22. Thus, applicant submits that claims 14 and 22 are not anticipated by Nishioka et al. Claims 16, 17 and 116 are dependent from claim 14. Thus, applicant submits that claims 16, 17 and 116 are also in condition for allowance as being dependent from an allowable base claim and for the additional limitations that these claims contain therein.

The Examiner rejected claim 23 under 35 U.S.C. §103(a) as being obvious over Nishioka et al. The Examiner rejected claim 115 under 35 U.S.C. §103(a) as being obvious over Nishioka et al. in view of Uhlig, U.S. Patent No. 4,351,443. The Examiner rejected claims 27, 30 and 34 under 35 U.S.C. §103(a) as being unpatentable over Nishioka et al. in view of Uhlig. Claim 23 is dependent from claim 22. As discussed, Nishioka et al. does not disclose, teach or suggest the limitations of claim 22. As such, Nishioka et al. can not render claim 22 obvious. Thus, applicant submits that claim 23 is also not rendered obvious by Nishioka et al. for the same reason that Nishioka et al. does not render claim 22 obvious and for the additional limitations that claim 23 contains therein. Claim 27 requires a disc having a plurality of concentric ridges and that the all of said plurality of ridges contact the bottle neck rim along a majority of a circumferential length of the rim. As discussed, this feature is not disclosed, taught or suggested by Nishioka et al. Uhlig does not make up for this deficiency of Nishioka et al. Thus, applicant

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submits that claim 27 is not obvious over Nishioka et al. in view of Uhlig. Claim 30 is dependent from claim 27. As such, applicant submits that claim 30 is also not rendered obvious by Nishioka et al. in view of Uhlig for the same reasons that these references do not render claim 27 unpatentable and for the additional limitations that these claims contain therein.

The amendment to claim 1 is supported by previously presented claim 3. The amendment to claim 4 was made for clarity. Support for the amendments to claims 14, 22 and 27 is found in the specification on column 2, line 64, to column 4, line 7, as well by FIGS. 4 and 5. Claim 115 was amended for clarity. Additional claims 117 and 118 are supported by previously presented claims 15 and 28, respectively.

A Substitute Declaration for Reissue Patent Application is being submitted concurrently herewith.

The rejections and objections to all claims pending in this application are believed to have been overcome, and this application is now believed to be in condition for allowance. Should the Examiner have any remaining questions or concerns about the allowability of this application, the Examiner is kindly requested to call the undersigned attorney to discuss them.

Respectfully submitted,
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APPENDIX